

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Monday, November 2, 1998

DIVISION ONE

A078386 -- The People v. Randall Jay Nathan.

The conviction for failing to obtain a building permit (count four) is reversed. In all other respects, the judgment is affirmed. Strankman, P.J. We concur: Stein, J., Swager, J. (Not for Publication.)

A080082 -- In re the Marriage of Noemi Kamp Gonzales and Manuel Gonzales.

The order is affirmed. Strankman, P.J. We concur: Stein, J., Swager, J. (Not for Publication.)

A080278, A081667 -- David Shapiro et al. v. Park Bellevue Tower Associates.

The judgment is affirmed. The order denying defendant attorney fees is affirmed. Strankman, P.J. We concur: Stein, J., Swager, J. (Not for Publication.)

A080752 -- In re Happy K., a Person Coming Under the Juvenile Court Law.

The order is affirmed. Strankman, P.J. We concur: Swager, J., Marchiano, J. (Not for Publication.)

Monday, November 2, 1998 (continued)

DIVISION FIVE

A081685 -- In re the Matter of Gumesindo R., a Person Coming Under the Juvenile Law.

The order of the juvenile court is affirmed. Stevens, J. We concur: Jones, P.J., Haning, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Tuesday, November 3, 1998

DIVISION THREE

A068753 -- Sandra L. Badie et al. v. Bank of America.

The judgment entered in favor of the Bank on the plaintiff's third cause of action with respect to the validity and enforceability of the ADR clause is reversed. That clause is not a part of the Bank's contract with the four individual plaintiffs here and may not be enforced against them. The judgment is affirmed in all other respects. Costs are awarded to the individual appellants. Phelan, P.J. We concur: Corrigan, J., Walker, J. (Certified for Publication.)

DIVISION FOUR

A080966 -- The People v. Robert T. St. Jovite.

The judgment is affirmed. Poché, Acting P.J. We concur: Reardon, J., McGuinness, J. (Not for Publication.)

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

Tuesday, November 3, 1998

Court convened at 9:00 a.m. in its Courtroom at 303 Second Street, Marathon Plaza,
South Tower, Fourth Floor, San Francisco, California.

Present: Phelan, P.J., Corrigan, J., Parrilli, J. and C. Turner, Deputy Clerk.

A079920 Robert Kreeft, et al.,
v.
City of Oakland, et al.,
Cause called and argued by William Holsberry counsel for appellant, and
Barbara Parker, counsel for respondent. Cause ordered submitted.

Justice Walker took his place on the bench and Justice Phelan announced
that Justice Parrilli would not be participating on the following case.

A076337 Ivan Lilley,
v.
Robert E. Hales,
Cause called and argued by Thomas Clifton, counsel for appellant, and
Miriam Behman, counsel for respondent. Cause ordered submitted.

Justice Corrigan not participating on the following case.

A078040 Herschel Wallace Gordon, et al.,
v.
County of Mendocino,
Cause called and argued by Frank Zotter, counsel for appellant, and
Thomas E. Owen, counsel for respondent. Cause ordered submitted.

Justice Walker not participating on the following case.

A080368 In re Keith Charles C.,
The People,
v.
Keith Charles C.,

Cause called and argued by David B. Harrison, counsel for appellant, and
Amy Haddix, Deputy Attorney General, counsel for respondent. Cause

ordered submitted.

Justice Phelan not participating on the following case.

- A079984 Parkwood Montclair Partners,
v.
Athan Magganas,
Cause called and argued by Thomas Nuris, counsel for appellant, and
Michael Hassen, counsel for respondent. Cause ordered submitted.
- A079212 The People,
v.
William Vance Green,
Cause called and argued by Robert Spertus, counsel for appellant, via tele-
conference, and Christina V. Kuo, Deputy Attorney General, counsel for
respondent. Cause ordered submitted.
- A080467 Nosrat Shoai,
v.
Philip A. Torre,
Argument was waived and the cause was ordered submitted.
court adjourned

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Wednesday, November 4, 1998

DIVISION ONE

A080646 -- The People v. Frederick Marc Cooley.

Order Modifying Opinion and Denying Rehearing; The Court: It is ordered that the opinion filed herein on October 8, 1998, be modified as follows: (See Order.) The judgment is affirmed.

Defendant's petition for rehearing is denied. There is no change in the judgment. Stein, Acting P.J.

DIVISION TWO

A080253 -- In re Kestral and Cheyenne L., Persons Coming Under the Juvenile Court Law.

We affirm the judgment. Haerle, J. We concur: Kline, P.J., Lambden, J. (Not for Publication.)

DIVISION THREE

A081679 -- G. William Filley v. Sheung Ah Cheung.

The judgment is reversed and the cause is remanded to the trial court to permit Filley to file a petition to correct the arbitration award, and for further proceedings consistent with the views expressed in this opinion. Costs to appellant. Parrilli, J. We concur: Phelan, P.J., Corrigan, J. (Not for Publication.)

Wednesday, November 4, 1998 (continued)

DIVISION FOUR

A079808 -- The People v. Damani Collins.

The judgment is affirmed. Reardon, J. I concur: Hanlon, P.J. See dissenting opinion of Poché, J. (Not for Publication.)

DIVISION FIVE

A080072 -- Peter Rowland v. Goldstein & Gellman et al.

The judgment is affirmed. Haning, J. We concur: Jones, P.J., Stevens, J. (Not for Publication.)

A080644 -- The People v. Kinn s. Weber.

The order is affirmed. Haning, J. We concur: Jones, P.J., Stevens, J. (Not for Publication.)

A080908 -- The People v. Mitchell Earl Davis.

The judgment is affirmed. Haning, J. We concur: Jones, P.J., Stevens, J. (Not for Publication.)

A081273 -- The People v. Judith Lynn Mello.

The judgment is affirmed. Haning, J. We concur: Jones, P.J., Stevens, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Thursday, November 5, 1998

DIVISION TWO

A082772 -- The People v. Jon Christian Anderson.

The judgment is affirmed. Lambden, J. We concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

DIVISION THREE

A080467 -- Nosrat Shoai v. Philip A. Torre.

The judgment is affirmed. Phelan, P.J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Friday, November 6, 1998

DIVISION ONE

A079702 -- The People v. Craig Stephen Scobee.

The case is remanded to the trial court for the limited purpose of resentencing. In all other respects, the judgment is affirmed. Strankman, P.J. We concur: Stein, J., Marchiano, J. (Not for Publication.)

A081897 -- The People v. Emmanuel Roundtree.

The case is remanded to the trial court for calculation of presentence custody credits. On remand, the court shall determine and award credit for the actual number of days appellant spent in jail and prison from arrest to final resentencing, and conduct credits earned while in jail. (Pen. Code, §§ 2900.5, 4019.) The sentence is otherwise affirmed. Strankman, P.J. We concur: Stein, J., Swager, J. (Not for Publication.)

DIVISION TWO

A081726 -- CC-California Plaza Associates v. Paller & Goldstein.

The February 2, 1998, order vacating the earlier summary judgment and judgment is affirmed. Haerle, J. We concur: Kline, P.J., Lambden, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Monday, November 9, 1998

DIVISION ONE

A073986 -- The People v. Aaron Lyndale Cooper et al.

As the People concede, the abstract of judgment for Cooper's prison commitment reflects two errors in sentencing. First, the abstract of judgment for the indeterminate sentence states: "Defendant [is] to serve a minimum fifty (50) years." Since there is no statutory authorization for a judgment setting a minimum prison term, the words "a minimum" should be deleted. Second, the abstract of judgment for the determinate sentence erroneously doubled the midterm for counts 3 and 4 rather than doubling one-third the midterm as required by Penal Code section 1170.1, subdivision (a), and section 667, subdivision (e)(1). The judgment should reflect a consecutive 16-month sentence for count 3 (felon in possession of firearm) and a consecutive 32-month sentence for count 4 (kidnapping), stayed pursuant to Penal Code section 654.

The abstract of judgment for Cross's prison commitment also reflects two errors in sentencing. First, as in the case of Cooper's judgment, the abstract of judgment for the indeterminate term erroneously sets a minimum prison term. The language "Defendant to serve a minimum twenty-five (25) years" should be modified by deleting the words "a minimum." Second, the abstract of judgment for the determinate term erroneously sets a two-year arming enhancement pursuant to Penal Code section 12022, subdivision (a), which in fact authorizes a one-year enhancement. The judgment should reflect a one-year enhancement to count 2 pursuant to Penal Code section 12022, subdivision (a).

The convictions of both Cooper and Cross are affirmed. Cooper's case is remanded to the superior court to exercise its discretion to impose consecutive or concurrent sentences for his convictions of first degree murder and carjacking and to modify the abstract of judgment pursuant to this opinion. The clerk of the superior court is ordered to modify Cross's abstract of judgment pursuant to this opinion and, in all other respects, Cross's judgment is affirmed. Swager, J. We concur: Strankman, P.J., Stein, J. (Not for Publication.)

Monday, November 9, 1998 (continued)

A079132, A079875, A079074 -- Peter Brown, as Personal Representative, etc., et al. v. State of California et al.

The judgments are affirmed. Strankman, P.J. We concur: Stein, J., Swager, J. (Not for Publication.)

A080645 -- M. Thomas Risner et al. v. World Savings and Loan Association.

The judgment is affirmed. Strankman, P.J. We concur: Stein, J., Swager, J. (Not for Publication.)

A082114 -- Joseph Chen et al. v. Pacific Coast Waterproofing Company et al.

The case involves application of neither the “paid travel time” rule nor the “required vehicle” rule, but is, as Justice Gilbert stated in *Tryer v. Ojai Valley School*, *supra*, 9 Cal.App.4th at p. 1482, an application of the “lunch break” rule, which holds that an employee on a meal break is not in the service of the employer, and the employer is not responsible for the employee’s negligence during such periods. The judgment is affirmed. Marchiano, J. We concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

A082599 -- The People v. Thaddius Shawn Mueller.

The judgment is affirmed. Marchiano, J. We concur: Strankman, P.J., Swager, J. (Not for Publication.)

Monday, November 9, 1998 (continued)

DIVISION TWO

A081380 -- Estate of Bette N. Stanton, Deceased.

Gary Stanton v. Anne Clarke, as Executrix, etc.

The order, as modified to incorporate a dismissal of the petition, is affirmed.
Lambden, J. We concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

A084544 -- Regents of the University of California v. The Superior Court of Alameda County, Naomi Rosenthal.

By The Court: The petition for writ of mandate/prohibition/stay is denied. Kline, P.J.

A084719 -- Bruce Dickinson, et al. v. The Superior Court of Alameda County, James C. Soper, et al., R.P.I.

By The Court: The petition for writ of mandate/stay is denied. Neither a writ of prohibition nor a writ of mandate will lie to resolve an issue as to the admissibility of evidence. (*People v. Municipal Court (Ahnemann)* (1974) 12 Cal. 3d 658.) The erroneous exclusion or admission of evidence is reviewable on appeal from a judgment or decision and examined in a context whether the purported error resulted in a miscarriage of justice. (*Laurie S. v. Superior Court* (1994) 26 Cal.App.4th 195, 203.) Kline, P.J.

DIVISION FIVE

A080728 -- The People v. Raymond Michael Goodrich.

We affirm. Jones, P.J. We concur: Haning, J., Stevens, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Tuesday, November 10, 1998

DIVISION TWO

A077542 -- The People v. David B. Denison.

A082619 -- In re David Brian Denison, On Habeas Corpus.

The petition for writ of habeas corpus is granted. The judgment of conviction is vacated and appellant is remanded to the Superior Court of Marin County. Upon finality, the clerk shall remit a certified copy of this opinion to the superior court for filing, and respondent shall serve another copy thereof on the prosecuting attorney in conformity with Penal Code section 1382, subdivision (a)(2). (See *In re Wilson, supra*, 3 Cal.4th at p. 958.) Kline, P.J. We concur: Lambden, J., Ruvolo, J. (Certified for Publication.)

A080586 -- The People v. David Pacheco.

The judgment is affirmed. Haerle, Acting P.J. We concur: Lambden, J., Ruvolo, J. (Not for Publication.)

A081294 -- The People v. Edward L. Martinez.

By The Court: The request to publish the above-entitled opinion is granted.
Kline, P.J.

A084726 -- Marcella Cuevas v. The Superior Court of Alameda County, The People of the State of California, R.P.I.

By The Court: The petition for writ of mandate is denied. Kline, P.J.

Tuesday, November 10, 1998 (continued)

DIVISION THREE

A076974 -- Syntex Corporation et al. v. Lowsley-Williams and Companies et al.

The order and judgment of the trial court denying London Insurers' motion for JNOV as to the pollution exclusion clauses in the 1973-1984 policies is reversed. The trial court is directed to enter a new judgment finding that London Insurers has no duty to indemnify Syntex under the 1973-1984 policies for damage caused by Bliss's release of dioxin-tainted oil. The judgment of the trial court determining that London Insurers must indemnify Syntex under the 1970-1973 policy is reversed, and the matter remanded to the trial court for further proceedings consistent with this decision, including retrial of those factual issues necessary for a declaration of London Insurers' indemnity obligations under the 1970-1973 policies as to the government clean-up claims.

London Insurers to recover costs on appeal. Walker, J. We concur: Corrigan, Acting P.J., Parrilli, J. (Certified for Publication.)

A077553 -- Otis McPeters v. Al Norman.

For all the foregoing reasons, the judgment of the trial court is affirmed in its entirety. Respondent shall recover his costs, but his request for sanctions on appeal is denied. Although appellant's claims about irregularities in the proceedings below are not meritorious, neither are they frivolous under the standards applicable to a request for appellate sanctions. (See *In re Marriage of Flaherty* (1982) 31 Cal.3d 637, 649.) Phelan, P.J. We concur: Corrigan, J., Parrilli, J. (Not for Publication.)

Tuesday, November 10, 1998 (continued)

DIVISION FOUR

A082274 -- The People v. Paul William Ahrens.

The trial court is directed to prepare an amended abstract of judgment reflecting that defendant is entitled to 174 conduct and custody credits, and to forward a certified copy of the amended abstract to the Department of Corrections. The judgment of conviction is affirmed in all other respects. Poché, Acting P.J. We concur: Reardon, J., McGuinness, J. (Not for Publication.)

DIVISION FIVE

A079803 -- The People v. James D. Harrison.

The conviction is affirmed. The trial court is ordered to prepare and to forward to the Department of Corrections an amended abstract of judgment showing that the terms imposed on counts one, three, and four must be served consecutively. In addition, appellant should be awarded 45 not 46 days of conduct credit. Jones, P.J. We concur: Haning, J., Stevens, J. (Not for Publication.)

A081341 -- In re the Marriage of Bruce Ian and Tara Filben.

We affirm the superior court's issuance of the restraining order. We reverse the superior court's determination of arrears and award of attorney fees, and remand for reconsideration of those issues. Jones, P.J. We concur: Haning, J., Stevens, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Thursday, November 12, 1998

DIVISION TWO

A081233 -- The People v. Antonio Rivera.

The judgment is affirmed. Kline, P.J. We concur: Haerle, J., Ruvolo, J. (Not for Publication.)

A082801 -- In re William P., a Person Coming Under the Juvenile Court Law.

The judgment is affirmed. Lambden, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)

A083816 -- Pacific Coast Building Products, Inc., et al. v. The Superior Court of Alameda County, Braddock & Logan Group, R.P.I.

By The Court: The petition for writ of mandate/certiorari is denied. Kline, P.J.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Friday, November 13, 1998

DIVISION ONE

**A079761 & A080055 -- Cammerin K. Boyd et al. v. Toyota Motor Sales,
U.S.A., Inc., et al.**

The judgment is affirmed. Swager, J. We concur: Strankman, P.J., Stein, J. (Not for Publication.)

DIVISION TWO

A082372 -- In re Dylan J., a Person Coming Under the Juvenile Court Law.

The jurisdictional finding being unsupported, the judgment is reversed. Lambden, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)

DIVISION THREE

A080008 -- Katharine Whipple Vestri v. Department of Motor Vehicles.

The judgment is reversed. The matter is remanded to the trial court with directions to enter a new and different judgment granting the petition for a writ of mandate. Vestri is awarded her costs on appeal. Phelan, P.J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

Friday, November 13, 1998 (continued)

A080368 -- In re Keith C., a Person Under the Juvenile Court Law.

The jurisdictional and dispositional orders are affirmed. Phelan, P.J. We concur: Corrigan, J., Parrilli, J. (Not for Publication.)

DIVISION FOUR

A079747 -- Alternative Systems, Inc. v. Thomas P. Carey.

We reverse the judgment. ASI is entitled to a trial de novo. The parties will bear their own costs on appeal. Reardon, J. We concur: Hanlon, P.J., Poché, J. (Certified for Publication.)

A081990 -- The People v. Donald Max Garner Friedman.

The judgment, including the sentence, is affirmed. Reardon, J. We concur: Hanlon, P.J., Poché, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Monday, November 16, 1998

DIVISION ONE

A077997 -- Robert Etter, Jr. v. Veriflo Corporation.

Order Modifying Opinion and Denying Rehearing: The opinion filed October 20, 1998, is ordered modified in the following respects: (See Order.)

There is no change in the judgment. The petition for rehearing is denied.
Strankman, P.J. (Certified for Publication.)

DIVISION TWO

A080694 -- Anti-Defamation League of B'Nai B'rith et al. v. The Superior Court of the County of San Francisco, Audrey Shabbas et al., R.P.I.

The order to show cause is discharged. The petition for writ of prohibition and/or mandate is granted, and respondent court is directed to set aside and vacate its September 19, 1997, order (as amended at the November 6, 1997 status conference). The parties shall bear their own costs on appeal. Kline, P.J. We concur; Haerle, J., Lambden, J. (Certified for Publication.)

DIVISION THREE

A079862 -- The People v. Christopher Hayes Conatser.

Affirmed. Walker, J. We concur: Phelan, P.J., Corrigan, J. (Not for Publication.)

Monday, November 16, 1998 (continued)

A080761 -- The People v. Anthony Lee Norman.

We find no issues requiring further briefing and affirm the judgment. Walker, J. We concur: Phelan, P.J., Parrilli, J. (Not for Publication.)

A082714 -- In re Willie J. W., a Person Coming Under the Juvenile Court Law.

We have reviewed the entire record on appeal and conclude there are no arguably meritorious issues. Consequently, the judgment is affirmed. Parrilli, J. We concur: Phelan, P.J., Corrigan, J. (Not for Publication.)

DIVISION FIVE

A080885 -- Alexander M. Boyovich v. City of Oakland.

A081111 -- Alexander M. Boyovich v. City of Oakland.

The order granting an offset is affirmed. The judgment on the petition for writ of mandate and subsequent order denying Oakland's motion to vacate or modify that judgment are also affirmed. Jones, P.J. We concur: Haning, J., Stevens, J. (Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION ONE

Monday, November 16, 1998

The Court convened at 9:00 a.m. in its courtroom at 303 - 2nd Street, Fourth Floor, San Francisco. Present: Strankman, P.J., Stein, J., Swager, J. and N. Millner, Deputy Clerk.

- A077768 The People,
 v.
 Kao Kouei Saechao, et al.
Cause called and argued by Donald Specter, counsel for appellant Seng Saechao, and Matthew P. Boyle, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A080382 The People,
 v.
 Paul Randall Page.
Cause called. Karen Balacek, counsel for appellant, was contacted on the Court's teleconferencing system, but due to malfunction, could not be connected to the courtroom. Christopher Wei, Deputy Attorney General appeared on behalf of respondent. Cause continued to future calendar.
- A078335 Henry Grausz, et al.,
 v.
 Evans, Farber & Cipinko, et al.
Cause called and argued by Edward Kaplowitz, counsel for appellant Evans, Farber & Cipinko et al., Elizabeth Williams, counsel for appellant H. Lee Evans, and Christopher Rillo, counsel for respondent. Cause ordered submitted.
- A079625 Henry Grausz, et al.,
 v.
 H. Lee Evans.
Cause called and argued by Elizabeth Williams, counsel for appellant, and Christopher Rillo, counsel for respondent. Cause ordered submitted.

At this point in the proceedings, Presiding Justice Strankman left the bench and Justice Marchiano joined the bench. Justice Stein became Acting Presiding Justice.

A078803 The People,
 v.
 Arnold Thomas.
Cause called and argued by Ford Greene, counsel for appellant, and Lisa Ashley, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A077219/
A078097 Kocks, Crane & Marine Co., et al.,
 v.
 Samsung Shipbuilding, et al.
Cause called and argued by John D. O'Connor, counsel for appellants, and William Delhagen, counsel for respondents. Cause ordered submitted.

Court recessed until 2 p.m.

Court reconvened at 2:00 p.m. Present: Strankman, P.J., Stein, J., Marchiano, J. and B. Robbins, Deputy Clerk.

A081276 Alan D. Liker, et al.
v.
Bank of America.
Cause called and argued by Hillel Chodos, counsel for appellants, and Thomas Peterson, counsel for respondent. Cause ordered submitted.

A079932 Ruth Pullman,
v.
Mortensen's Carpet, Inc., et al.
Cause called and argued by Ruth Pullman, appellant in pro per, and Robert Ryan on behalf of all respondents. Laurie Sherwood, Ian Fraser-Thomson, George Duff, and Stephen Ciotoli appeared on behalf of their respective clients, but did not argue. Cause ordered submitted.

At this point in the proceedings, Justice Stein left the bench and Justice Swager joined the bench.

A082106 Nicanor O. Ballesteros, et al.,
v.
Ty Zuan Do, et al.
Cause called and argued by Gilbert T. Graham, counsel for appellants, and Craig R. Berne, counsel for respondents. Cause ordered submitted.

A079246 Dr. Margie McRae,
v.
Lucky Stores, Inc.
Cause called and argued by Frederick James, counsel for appellant, and Michael J. Druding, counsel for respondent. Cause ordered submitted.

A081342 Plum Tree Town Homes,
v.
Tobey P. Ringuette, et al.
Cause called and argued by Patrick Coyle, counsel for appellants, and Cheryl P. Martinsen, counsel for respondent. Cause ordered submitted.

A081564 In re Marriage of Echenhofer.
Frank G. Echenhofer,
v.
Mary M. Coombs.
Cause called and argued by Robert A. Roth, counsel for appellant, and
Mary M. Coombs, counsel for respondent. Cause ordered submitted.

Court adjourned.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Tuesday, November 17, 1998

DIVISION ONE

A083066 -- The People v. Tansy Racklin.

The judgment is affirmed. Stein, J. We concur: Strankman, P.J.,
Marchiano, J. (Not for Publication.)

DIVISION TWO

A075605 -- The People v. Tyrone I.

A075795 -- The People v. Adrian L.

A075796 -- The People v. Arthur G.

A075976 -- The People v. Jeffrey M.

A076677 -- The People v. Aaron W.

A077095 -- The People v. Perry J.

The trial court shall take all necessary steps to ensure that an IEP is prepared for Jeffrey M. and submitted to the CYA forthwith. In all other respects, the judgment of the trial court is affirmed. Ruvolo, J. We concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

A081426 -- Public Access Project et al. v. San Francisco Library Commission.

The judgment is affirmed. Kline, P.J. We concur: Lambden, J., Ruvolo, J. (Certified for Publication.)

Monday, November 17, 1998 (continued)

A084347 -- Patrick McWhorter v. Clyde Dalton, Sr., et al.

The appeal is dismissed. Costs on appeal to respondents. Kline, P.J. We concur: Haerle, J., Ruvolo, J. (Not for Publication.)

A084359 -- Howard Jarvis Taxpayers Assn., et al. v. The Superior Court of Contra Costa County, City of Brentwood, R.P.I.

By The Court: The petition for writ of mandate is denied. Kline, P.J.

A084519 -- Napa Valley Unified School District, et al. v. The Superior Court of Contra Costa County, Larry Ghilotti, et al., R.P.I.

By The Court: the petition for writ of mandate is denied. Real parties' request for judicial notice is also denied. Kline, P.J.

DIVISION THREE

A077791 -- The People v. Freddie Elrod.

Affirmed. Walker, J. I concur: Phelan, P.J. See concurring opinion of Parrilli, J. (Not for Publication.)

A081983 -- The People v. Phillip R. Smith, Jr.

The judgment is affirmed. Corrigan, J. We concur: Phelan, P.J., Walker, J. (Not for Publication.)

Tuesday, November 17, 1998 (continued)

DIVISION FIVE

A081010 -- Estate of William McKinley Hudson, Deceased.

Ruth W. Taylor v. Jackqueline Bradley.

The final order of distribution is affirmed. Jones, P.J. We concur: Haning, J., Stevens, J. (Not for Publication.)

A083091 -- In re Dario T., a Person Coming Under the Juvenile Court Law.

The order adjudicating appellant a continued ward of the court and committing him to the CYA is affirmed. Jones, P.J. We concur: Haning, J., Stevens, J. (Not for Publication.)

Courtroom Minutes
Division 4
Tuesday, November 17, 1998

Court convened at 9:30 a.m. in its courtroom at 303-2nd Street, 4th Floor, San Francisco. Present: Hanlon, P.J., Poche, J. and McGuinness, J.; Channing Hoo, Deputy Clerk and CHP Officer Jim Ryker, Bailiff.

A081840 In re Eric W., a minor.
People
v.
Eric W.
Cause called. Robert Angres, counsel for appellant Eric W., teleconferenced. Moona Nandi, counsel for respondent, argued in person. Cause ordered submitted.

At this point, the court reconstituted itself to include Hanlon, P.J., Poche, J. and Reardon, J.

A075423 Odelia Braun, MD
v.
Bureau of State Audits et al.
Cause called. Phil Horowitz, counsel for appellant Braun, argued. Charity Kenyon, counsel for respondents, argued. Cause ordered submitted.

A080529 Constance Burnikel
v.
Nestle Brands Foodservice Company
Cause called. Karen G. Gruneisen, counsel for appellant Burnikel, argued in person. Norman Quandt, counsel for respondent, teleconferenced. Cause ordered submitted.

A082205 Lisa Wagner
v.
Kathleen Crandall
Cause called. E. Elizabeth Summers, counsel for appellant Crandall, argued. Carol Amyx, counsel for respondent, argued. Cause ordered submitted.

At this point, the court reconstituted itself to include Hanlon, P.J., Poche, J. and McGuinness, J.

A075326

Susan Cleary

v.

John Leonard, MD et al.

Before the hearing, the cause was continued to the December 18, 1998 calendar.

A079655

Ayala Boring, Inc.

v.

V & M Construction/Backhoe et al.

Cause called at 10:57 a.m; cause was set on the 10:30 a.m. calendar. Frank Satalino, counsel for appellant Ayala, appeared by telephone. No appearance on respondent's behalf. Cause ordered submitted without argument.

Court recessed at 11:00 a.m.

Courtroom Minutes
Division 4
Tuesday November 17, 1998

Court reconvened at 1:30 p.m. in its courtroom at 303-2nd Street, 4th Floor, San Francisco. Present: Hanlon, P.J., Reardon, J., McGuiness, J., Jim Campbell, Deputy Clerk and CHP Officer Bob Buckles, Bailiff.

A078385 People,
 respondent,
 v.
 Michael Anthony Gallardo,
 appellant.

A083565 In re Michael Anthony Gallardo, on Habeas Corpus

Causes called. Richard Such argued on behalf of appellant, Michael Anthony Gallardo. Kenneth Young, D.A.G., argued on behalf of respondent. Causes submitted.

A081798 People,
 respondent,
 v.
 Nathaniel Gulley,
 appellant.

Cause called. Richard Braucher argued on behalf of appellant, Nathaniel Gulley. Gregory Ott, D.A.G., argued on behalf of respondent. Cause submitted.

At this time the Court reconstituted itself with Poche, Acting P.J., Reardon, J. and McGuiness, J.

A080612 Lisa Marie Pendleton et al.,
appellants
v.
Payless Drug Stores Northwest, Inc. et al.,
respondents.

Cause called. Charles Bonner and Michael Kinane argued on behalf of appellants, Lisa Marie Pendleton et al. Ronald Toff argued on behalf of respondents. Cause submitted.

A080422 George J. Habeeb et al.,
respondents,
v.
Robert H. Highsmith et al.,
appellants.

Cause called. Cause continued to January, 1999 calendar.

The Court adjourned at 2:30 p.m.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Wednesday, November 18, 1998

DIVISION ONE

A080386 -- The People v. Henry Amaeshi Nwozuzu.

Based upon the record before us, we cannot tell if the court may have been inclined to impose concurrent terms if it had followed the appropriate “same occasion” standard established by *Deloza*. We know only that the court believed consecutive sentences were mandatory under the multiple punishment test of section 654.

Therefore, the case must be remanded to the trial court for resentencing in accordance with the views expressed herein. In all other respects the judgment is affirmed. Swager, J. We concur: Strankman, P.J., Stein, J. (Not for Publication.)

DIVISION TWO

A084811 -- Fleetwood Enterprises, et al. v. The Superior Court of San Francisco County, Paul T. Truehart, R.P.I.

By The Court: The petition for writ of prohibition/stay is denied. Kline, P.J.

Wednesday, November 18, 1998 (continued)

DIVISION THREE

**A073202 -- Care Management Corporation dba Sharon Heights
Convalescent Hospital v. Department of Health Services, State of California.**

By The Court: Submission of the above-entitled cause is vacated on the ground further consideration of the merits of the issues raised on appeal is required. The cause is hereby ordered resubmitted. Phelan, P.J.

**A080183 -- Coral Rehab Services, Inc. v. Casha Resource Home Health
Services, Inc.**

We reverse and remand with instructions to the trial court to enter an order denying Casha's motion to dismiss. The parties will bear their own costs on appeal. Phelan, P.J. We concur: Corrigan, J., Parrilli, J. (Not for Publication.)

**A081926 -- In re Isiah H. et al., a Person Coming Under the Juvenile
Court Law.**

The judgment is affirmed. Corrigan, Acting P.J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

DIVISION FOUR

A080335 -- The People v. Larry Ronald Thole.

The judgment is affirmed. McGuinness, J. We concur: Hanlon, P.J., Reardon, J. (Not for Publication.)

Wednesday, November 18, 1998 (continued)

**A080802 -- Conservatorship of the Person and Estate of Betty Sequeira.
San Mateo County Public Guardian v. Betty Sequeira.**

The judgment is affirmed. Poché, Acting P.J. We concur: Reardon, J.,
McGuinness, J. (Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION TWO

Wednesday, November 18, 1998

The Court met at 9:30 a.m. in its courtroom at 303 - Second Street, 4th Floor, San Francisco. Present: Kline, P.J., Haerle, J., Ruvolo, J., and S. Graham, Deputy Clerk.

- A079475 The People
 v.
 Jonathan Victor Ruiz
Cause called and argued by A. J. Kutchins, counsel for appellant and Chris Wei, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A080788 The People
 v.
 Jewel Jerome Harrison
Cause called and argued by John Jordan, counsel for appellant and Sharon Wooden, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A080309 Mannie Joel, M.D., et al.
 v.
 Valley Surgical Center, et al.
Cause called and argued by Daniel U. Smith, counsel for appellants and James Napoli, counsel for respondents. Cause ordered submitted.
- A081461 Danilo Suva
 v.
 Caremark Pharmacy, et al.
Cause called. Appearances were made by Danilo Suva, appellant in propria persona and Arthur Eidelhock, counsel for respondents. Argument was waived and the case was submitted.

Court recessed until 1:30 p.m.

Court reconvened at 1:30 p.m. Present: Kline, P. J., Lamben, J., Ruvolo, J. and S. Graham, Deputy Clerk

A081740 In re the Marriage of Sharon and Lewis Bass
Sharon Bass
v.
Lewis Bass
Cause called and argued by Lawrence Locker, counsel for appellant and Brad Brereton, counsel for respondent. Cause ordered submitted.

A081046 The People
v.
Eric Nelson Braun
Cause called and argued by J. David Nick, counsel for appellant and John Gordnier, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

Court recessed until Thursday, November 19, 1998 at 9:30 a.m.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Thursday, November 19, 1998

DIVISION ONE

A080996 -- Bevilacqua & Schikore, Inc., et al. v. Paul W. Van Etten et al.

The judgment is affirmed. Swager, J. We concur: Strankman, P.J., Stein, J. (Not for Publication.)

DIVISION FOUR

A079655 -- Ayala Boring, Inc. v. V & M Construction/Backhoe.

The judgment is affirmed. The parties shall bear their own costs on this appeal. Hanlon, P.J. We concur: Poché, J., McGuiness, J. (Not for Publication.)

A080513 -- In re Richard M., a Person Coming Under the Juvenile Court Law.

The dispositional order is affirmed. Hanlon, P.J. We concur: Poché, J., Reardon, J. (Not for Publication.)

A081444, A081960 -- Stephan C. Williams v. Two Worlds Pleasant Hill Gregory Lane Owners Association.

The judgment and the attorney fees order are affirmed. Reardon, J. We concur: Hanlon, P.J., Poché, J. (Not for Publication.)

Thursday, November 19, 1998 (continued)

A082205 -- Lisa Wagner v. Kathleen Crandall.

The attorney fees order is affirmed. Reardon, J. We concur: Hanlon, P.J., Poché, J. (Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION TWO

Thursday, November 19, 1998

The Court met at 9:30 a.m. in its courtroom at 303 - Second Street, 4th Floor, San Francisco. Present: Haerle, Acting P.J., Lambden, J. Ruvolo, J. and I. Santos, Deputy Clerk.

A082247 In re the Estate of Erwin M. Hirschfelder, Deceased.
Barbara Hanen,
v.
Susan Waterman.
Cause called and argued by Casimir Wilson, counsel for appellant, and Alfred Dovbish, counsel for respondent. Cause ordered submitted.

A079933 Conservatorship of the Person and Estate of Pearl D. Huth.
Jewish Family and Children's Services, as Conservator,
v.
Pearl D. Huth.
Cause called and argued by Brent Seymour, counsel for appellant, and Richard Dale, counsel for respondent. Cause ordered submitted.

A080780 Information Processing Systems of California, Inc.,
v.
World Satellite Communications Corporation, et al.
Cause called and argued by William Kelley, counsel for appellant, and Glynn Falcon, counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

Court reconvened at 1:30 p.m. Present: Kline, J., Haerle, J., Lambden, J., and I. Santos, Deputy Clerk.

A078784 In re the Marriage of Jeanne and Albert Tate.
Jeanne Tate,
v.
Albert R. Tate, Jr.

Cause called and argued by Robert Roth, counsel for appellant, and Lawrence Thorpe, counsel for respondent. Cause ordered submitted.

A080670 John Robertson, et al.,
v.
The Housing Group, et al.
Cause called and argued by Gerald Filice, counsel for appellant, and Antonio Celaya, counsel for respondent. Cause ordered submitted.

A080821 Contra Costa Council, et al.,
v.
County of Contra Costa et al.

A081338 Western States Petroleum Association,
v.
County of Contra Costa et al.
Cause called and argued by Geoffrey Robinson and Edward Casey, counsels for appellants, and Silvano Marchesi and Ann Broadwell, counsels for respondents. Cause ordered submitted.

A081162 Fred Locher et al.,
v.
Presley Homes.
Cause called and argued by Karen Roberts, counsel for appellant, and Grant Guerra, counsel for respondent. Cause ordered submitted.

COURT ADJOURNED.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Friday, November 20, 1998

DIVISION TWO

A080800 -- Allstate Insurance Company v. Myrtle Paetz, et al.

The judgment is affirmed. Haerle, J. We concur: Kline, P.J., Ruvolo, J.
(Not for Publication.)

DIVISION THREE

A078620 -- Norcal Mutual Insurance Company v. Valerie Jean Adams et al.

The judgment is affirmed. Costs on appeal are awarded to Norcal. Parrilli, J., We concur: Phelan, P.J., Corrigan, J. (Not for Publication.)

A078697 -- Juanita Valette v. Manila Oriental Market et al.

For all the foregoing reasons, the judgment of the trial court is affirmed in its entirety. Costs to respondent. Phelan, P.J. We concur: Corrigan, J., Parrilli, J.
(Not for Publication.)

A079212 -- The People v. William Vance Green.

The judgment of conviction is affirmed. Phelan, P.J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

Friday, November 20, 1998 (continued)

DIVISION FOUR

A081560 -- Steven Bolt et al. v. State of California.

The judgment is affirmed. Appellants to bear costs of appeal. McGuiness, J. We concur: Hanlon, P.J., Poché, J. (Not for Publication.)

A081798 -- The People v. Nathaniel Gulley.

The judgment is affirmed. McGuiness, J. We concur: Hanlon, P.J., Reardon, J. (Not for Publication.)

A080682 -- The People v. Clarence John Martin.

The instructions given by the trial court were correct in all respects. The judgment is affirmed. McGuiness, J. We concur: Hanlon, P.J., Reardon, J. (Not for Publication.)

A083180 -- Lisa R. v. Superior Court of California, County of Alameda, Alameda County Social Service Agency, R.P.I.

The order terminating reunification services and setting a selection and implementation hearing under section 366.26 complies with governing law and is supported by substantial evidence. The petition for an extraordinary writ is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development, Ltd. v. Superior Court* (1990) 50 Cal.3d 1012, 1024.) Any stay previously issued in this matter is dissolved. Our decision is final in this court immediately. Hanlon, P.J. We concur: Poché, J., McGuiness, J. (Not for Publication.)

Friday, November 20, 1998 (continued)

A083338 -- Rickey F. v. Superior Court of California, City and County of San Francisco, San Francisco Department of Human Services, R.P.I.

The order terminating reunification services and setting a selection and implementation hearing under section 366.26 complies with governing law and is supported by substantial evidence. The petition for an extraordinary writ is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development, Ltd. v. Superior Court* (1990) 50 Cal.3d 1012, 1024.) Any stay previously issued in this matter is dissolved. Our decision is final in this court immediately. Poché, J. We concur: Hanlon, P.J., McGuiness, J. (Not for Publication.)

A083366 -- Bonnie P., v. Superior Court of California, County of Mendocino, Mendocino County Department of Social Services, R.P.I.

The order terminating reunification services and setting a selection and implementation hearing under section 366.26 complies with governing law and is supported by substantial evidence. The petition for an extraordinary writ is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development, Ltd. v. Superior Court* (1990) 50 Cal.3d 1012, 1024.) Any stay previously issued in this matter is dissolved. Our decision is final in this court immediately. McGuiness, J. We concur: Poché, Acting P.J., Reardon, J. (Not for Publication.)

DIVISION FIVE

A080023 -- Conservatorship of the Person and Estate of Guy F. Coombs.

Mercedita Coombs v. David F. Coombs, as Conservator, etc.

We dismiss this appeal. Jones, P.J. We concur: Haning, J., Stevens, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

DIVISION FIVE

Friday, November 20, 1998

Court convened at 9:30 a.m. in its Courtroom at 303 Second Street, South Tower, Fourth Floor, San Francisco, California. Present: Jones, P.J.; Haning, J.; Stevens, J.; and Richard H. Sandvik and Mary Quilez Deputy Clerks.

- A080917 Stuart Fong
 v.
 City of Millbrae
 Cause called and argued by Neil A. Helfman, counsel for appellant, and by Jennifer Bergstrom, counsel for respondent. Cause ordered submitted.
- A081928 National Enterprises Incorporated
 v.
 Steven Kay
 Cause called and argued by Jeffrey J. Goodrich, counsel for appellant, and by Craig B. Barkacs, counsel for respondent. Cause ordered submitted.
- A081526 Henry M. Hong et al.
 v.
 First Alliance Mortgage Company et al.
 Cause called and argued by Paul Hall, counsel for appellant, and by Phillip M. Steinbock, counsel for respondent. Cause ordered submitted.
- A080468 Derald Seid
 v.
 Suey Ping Lui Yee et al.
 Cause called and argued by Paige Leslie Wickland, counsel for appellant, and by Richard M. McNeely, by teleconference and Stephen Lightfoot, counsel for respondents. Cause ordered submitted.

A079731
A080825 Walter R. Mikesell, Jr. et al.
v.
Robert L. Cloud & Associates, Inc.
Cause called and argued by Richard L. Mikesell, counsel for appellants,
and by Kendall D. Collins, counsel for respondent. Cause ordered
submitted.

A082508 David R. Holbrooke
v.
Franchise Tax Board
Cause called and argued by Jay Richard Strauss and Kenneth W. Pritikin,
counsel for appellant, and by David Lew, counsel for respondent. Cause
ordered submitted.

A079099 Julio Gutierrez
v.
Emilio Porta
Cause called and argued by William Kuo, counsel for appellant, and by
William Ruel Walker, counsel for respondent. Cause ordered submitted.

A080118 Ramon Zamudio
v.
City and County of San Francisco
Cause called and argued by B.E. Bergesen, counsel for appellant, and by
Daniel F. McLennon, counsel for respondent. Cause ordered submitted.

A079978 Richard W. Seibert, Jr.
v.
Northbrook Property & Casualty Insurance Co. et al.
Cause called, appearance by Kelly C. Franks, counsel for respondent,
counsel for appellant did not appear. Cause ordered submitted.

A079387 The People
v.
David Michael Graves
Cause called and argued by Kyle Gee, counsel for appellant, and by John
Vance, Deputy Attorney General, counsel for respondent. Cause ordered
submitted.

A081145 The People
 v.
 Michael McGavok
 Cause called and argued by Alan Charles Dell' Ario, counsel for appellant,
 and by Laurence Sullivan, Deputy Attorney General, counsel for
 respondent. Cause ordered submitted.

A081051 The People
 v.
 Gustavo Fernandez Contreras
 Cause called and argued by Louis N. Hiken, counsel for appellant, and by
 Matthew Boyle, Deputy Attorney General, counsel for respondent. Cause
 ordered submitted.

Court adjourned at 2:50 p.m.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Monday, November 23, 1998

DIVISION ONE

A078701 -- Northgate Foothills Associates et al. v. Richard L. Mudgett et al.

A080001 -- Northgate Foothills Associates et al. v. Richard L. Mudgett et al.

The judgment and order appealed from are affirmed. The parties shall bear their own costs on appeal. Swager, J. We concur: Strankman, P.J., Stein, J. (Not for Publication.)

A079932 -- Ruth Pullman v. Mortensen's Carpets, Inc., et al.

The judgment is affirmed. Strankman, P.J. We concur: Stein, J., Marchiano, J. (Not for Publication.)

A081564 -- In re the Marriage of Frank G. Echenhofer and Mary M. Coombs.

The order is affirmed. Strankman, P.J. We concur: Swager, J., Marchiano, J. (Not for Publication.)

A081924 -- In re Wesley S., a Person Coming Under the Juvenile Court Law.

In sum, we find no prejudicial error in the proceedings or arguable issues. We deem the commitment order to be corrected to reflect that the court imposed a concurrent term of three years for the violation of Welfare and Institutions Code section 871(b), and affirm it as corrected. Stein, J. We concur: Strankman, P.J., Marchiano, J. (Not for Publication.)

Monday, November 23, 1998 (continued)

A082771 -- The People v. Troy Gene Edwards.

Finding no arguable issues, we affirm the judgment. Strankman, P.J. We concur: Swager, J., Marchiano, J. (Not for Publication.)

DIVISION TWO

A072929, A074516, A075734, A078643 -- Jack Schleifer et al. v. Norman I. Krug.

A073557 -- Jack Schleifer et al. v. Hilda Sugarman.

A078818 -- Jack Schleifer et al. v. Ask Investments, Inc.

We modify that portion of the judgment in favor of Cal Prop to be in favor of plaintiffs individually with directions for the trial court to retain jurisdiction to ensure the compensatory and punitive damages are used to benefit the partnership. We modify that portion of the judgment in favor of Jame to be in favor of Schleifer as a derivative claim. The judgment is otherwise affirmed. Sugarman is awarded costs of the appeal from plaintiffs. Plaintiffs are awarded costs of the appeals from Krug and ASK. Lamden, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)

A079658 -- In re Jason M., a Person Coming Under the Juvenile Court Law.

The judgment is affirmed. Ruvolo, J. We concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

A081531 -- City of South San Francisco v. Josephine Anne Mayer, et al.

By The Court: The written opinion which was filed on October 27, 1998, has now been certified for publication pursuant to rule 976(b) of the California Rules of Court, and it is therefore ordered that it be published in the Official Reports. Haerle, Acting P.J.

Monday, November 23, 1998 (continued)

A081882 -- Eugene Korte, etc. v. Rolf G. Scherman, et al.

The appeal is dismissed. Haerle, Acting P.J. We concur: Lambden, J., Ruvolo, J. (Not for Publication.)

A082159, A082160, A082161, A082162 -- In re Kevin Lee Riggs, Brian Robert Censale, Kevin Henry Kinman, Jaida Jamala Mafahali on Habeas Corpus.

The judgments (orders) are affirmed. Haerle, J. We concur: Kline, P.J., Lambden, J. (Not for Publication.)

A084179 -- In re Reggie Davone R., a Person Coming Under the Juvenile Court Law.

Let a peremptory writ of mandate issue, directing the respondent court to vacate its August 31, 1998, order (filed September 2, 1998) terminating reunification services and setting a hearing under section 366.26. The respondent court is directed to enter a new and different order resuming the 12-month status of the case, and directing the Department to provide petitioner with additional reunification services consistent with the views expressed herein. This opinion is final as to this court forthwith pursuant to California Rules of Court, rule 24(d). Ruvolo, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)

Monday, November 23, 1998 (continued)

DIVISION THREE

**A082456 -- Estate of Charles F. Humphreys, Deceased.
Walter Slater, as Receiver and as Trustee, etc. v. Julia M.
Humphreys, as Special Administrator, etc.**

**A082547 -- Walter Slater, as Receiver and as Trustee, etc. v. The
Superior Court of the County of Alameda, Julia M. Humphreys, as Special
Administrator, etc., R.P.I.**

The petition for writ of mandate is denied and the appeal is dismissed.
Corrigan, J. We concur: Phelan, P.J., Walker, J. (Not for Publication.)

DIVISION FOUR

A075423 -- Odelia S. Braun, v. Bureau of State Audits et al.
The judgment of dismissal is affirmed with costs to respondents. Hanlon,
P.J. We concur: Poché, J., Reardon, J. (Certified for Partial Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION ONE

Monday, November 23, 1998

The Court convened at 9:00 a.m. in its courtroom at 303 - 2nd Street, Fourth Floor, San Francisco. Present: Strankman, P.J., Stein, J., Swager, J. and B. Robbins, Deputy Clerk.

- A079463 The People,
v.
Jason Carriger.
Cause called and argued by Richard Zimmer, counsel for appellant, and Catherine Rivlin, Deputy Attorney General, via teleconference, counsel for respondent. Cause ordered submitted.
- A081465 Patricia E. McQuade,
v.
Donald Del Grande, et al.
Cause called and argued by Raymond Bolanos, counsel for appellant, and Hugh T. Thomson, counsel for respondent. Cause ordered submitted.
- A082492 Dan Erlin, et al.
v.
Franchise Tax Board.
Cause called and argued by David Herbst, counsel for appellants, and John Newman, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A082511 Louis C. Cole, et al.,
v.
Franchise Tax Board.
Cause called and argued by David Herbst, counsel for appellants, and John Newman, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A079270/
A078618 Francis Collins, et al.,
v.
Metalclad Insulation Corp.
Cause called and argued by Gregory S. Rosse, counsel for appellant, and
Harry Wartnick, counsel for respondent. Cause ordered submitted.

A081091 Marlene Kowalski, et al.,
v.
Metalclad Insulation Corp.
Cause called and argued by Michael Tcheng, counsel for appellant, and
Alan Brayton, counsel for respondent. Cause ordered submitted.

A080494 Triad Systems Financial Corp.,
v.
Step-Ken Auto Parts, Inc., et al.
Cause called and argued by Samuel W. Gordon, counsel for appellant, and
Jay M. Goldman, counsel for respondents. Cause ordered submitted.

A076572 Robin Moshonov,
v.
Unique Homes, et al.
Cause called and argued by Thomas J. LaLanne, counsel for appellants
Ganulin; Robert Gerhardt, counsel for appellant Walsh; and Tony Tanke,
counsel for respondent. Cause ordered submitted.

Court adjourned.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Tuesday, November 24, 1998

DIVISION ONE

A081276 -- Alan D. Liker et al. v. Bank of America, as Trustee, etc.

The order appealed from is affirmed. Marchiano, J. We concur: Strankman, P.J., Stein, J. (Not for Publication.)

A082106 -- Nicanor O. Ballesteros et al. v. Ty Xuan Do et al.

The judgment in favor of respondents is reversed and the matter is remanded to allow appellants to amend their complaint. Appellants are entitled to costs on appeal. Marchiano, J. We concur: Strankman, P.J., Swager, J. (Not for Publication.)

A082383 -- The People v. Fred James Morley.

The judgment is affirmed. Marchiano, J. We concur: Strankman, P.J., Swager, J. (Not for Publication.)

DIVISION TWO

A082180 -- In re Tracy V., a Person Coming Under the Juvenile Court Law.

The judgment is affirmed. Haerle, Acting P.J. We concur: Lambden, J., Ruvolo, J. (Not for Publication.)

Tuesday, November 24, 1998 (continued)

DIVISION THREE

A083108 -- The People v. Lester Leroy Thurman.

Since there was no compliance with section 1237.5, the appeal is dismissed. Phelan, P.J. We concur: Corrigan, J., Walker, J. (Not for Publication.)

DIVISION FOUR

A079840 -- Empire Waste Management v. Town of Windsor.

Order Modifying Opinion and Denying Rehearing; The Court: It is ordered that the opinion filed herein on October 30, 1998, is modified as follows: (See Order.)

These modifications do not effect a change in the judgment.

The petition for rehearing is denied. Hanlon, P.J. (Certified for Publication.)

A081840 -- In re Eric W., a Person Coming Under the Juvenile Court Law.

We wish to emphasize that the remand ordered may require nothing more than reconsideration and clarification of the trial court's ruling; it does not necessarily require the taking of additional evidence.

The dispositional order is reversed and the cause is remanded to the juvenile court for further proceedings consistent with this opinion. Poché, J. We concur: Hanlon, P.J., McGuinness, J. (Not for Publication.)

Tuesday, November 24, 1998 (continued)

DIVISION FIVE

A078283 -- The People v. Armando Nicholas Williams.

The two-year enhancement imposed for carrying a firearm during a street gang crime (§ 12021.5) is stayed pending completion of the prison term, at which time the stay shall become permanent. The two-year term imposed pursuant to section 186.22 is stricken and substituted with a 15-year minimum parole ineligibility. In all other respects, the judgment is affirmed. The trial court is directed to submit a corrected abstract of judgment to the Department of Corrections. Stevens, J. We concur: Jones, P.J., Haning, J. (Not for Publication.)

A081421 -- Thaddeus Keiffer v. Bechtel Corporation.

We reverse the order awarding attorney fees and remand to the trial court for reconsideration of Keiffer's motion for attorney fees. We award attorney fees on appeal to Bechtel with the amount of fees to be determined by the trial court upon remand. (Gov. Code, § 12965, subd. (b).) Jones, P.J. We concur: Haning, J., Stevens, J. (Not for Publication.)

A082370 -- In re Jeffrey B., a Person Coming Under the Juvenile Court Law.

The order adjudicating appellant a ward of the court pursuant to Welfare and Institutions Code section 602 and placing him outside the home of his parents is affirmed. Haning, J. We concur: Jones, P.J., Stevens, J. (Not for Publication.)

Tuesday, November 24, 1998 (continued)

A083160 -- Conservatorship of the Person and Estate of Guy F. Coombs.

Mercedita Coombs v. David F. Coombs, as Conservator, etc.

We dismiss those portions of the appeal seeking review of the February 24, 1998 judgment, the surcharge order, the orders on the two motions for reconsideration and the September 16, 1997 order. Jones, P.J. We concur: Haning, J., Stevens, J. (Certified for Partial Publication.)

FIRST APPELLATE DISTRICT
DIVISION THREE

Tuesday, November 24, 1998

Court convened at 9:00 a.m. in its Courtroom at 303 Second Street, Marathon Plaza, South Tower, Fourth Floor, San Francisco, California.

Present: Phelan, P.J., Parrilli, J., Walker, and C. Turner, Deputy Clerk.

- A078168 The People,
v.
Joe Lynn George,
Cause called and argued by Charles Marchand, counsel for appellant, and Aileen Bunney, Deputy Attorney General, counsel for respondent. Counsel argued via tele conference.. Cause ordered submitted.
- A081222 In re the Marriage of Jane and Thomas Powers:
A081443 Jane Bernard Powers,
v.
Thomas Shelton Powers,
Cause called and argued by Christopher J. Donnelly, counsel for appellant, and David Richard Owens, counsel for respondent. Cause ordered submitted.
- A081741 In re Jeron W.,
Social Services Agency,
v.
Jerome W.,
Cause called and argued by Craig Alfred Brandt, counsel for appellant, and Mary M. Ash, Deputy County Counsel, counsel for respondent. Cause ordered submitted.
Justice Phelan not participating on the following case and Justice Corrigan, J. Walker, and Parrilli will be participating.
- A07715 James Wilson White,
6 v. Freemont Associates, et al.,
Cause called and argued by Dennis Lynn Wright, counsel for appellant, and Ronald Edward Mallen and Kenneth Joel Adlson, counsel for respondents. Cause ordered submitted.
- A079705 The People,
v.
Money M. Farael,
Cause called and argued by Ephraim Margolin, counsel for appellant, and

David Salmon, Deputy Attorney General, counsel for respondent.
Cause ordered submitted.

A080334

The People,

v.

Linda Faye Lawson,

Cause called and argued by Robert Bernard Bryzman, counsel for appellant,
and Chris Grove, Deputy Atty General, counsel for respondent.

Cause ordered submitted.

A080363

Tong Park,

v.

County of San Mateo,

Cause called and argued by Tong Park, appellant in pro-per, and Susan
Heikkinen Handelman, counsel for respondent. Cause ordered submitted.

A081571

Richard Slezak,

v.

Rose Tan,

Cause called and argued by Richard Slezak, appellant in pro-per, and Bernard
Thomas Cotter, counsel for respondent.

Cause ordered submitted.

court recessed until 1:30 p.m.

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

Tuesday, November 24, 1998

Court reconvened at 1:30 p.m. in its Courtroom at 303 Second Street, Marathon Plaza, South Tower, Fourth Floor, San Francisco, California.

Present: Phelan, P.J., Corrigan, J., Parrilli, J. Walker, J., and J. Casados, Deputy Clerk.

Justice Phelan announced he would not be participating in the first two matters on calendar.

A078651 Jo' An Kleckner,
A079320 v.

United Airlines.

Cause called and argued by James W. Gladden, counsel for appellant, and Daniel U. Smith, counsel for respondent. Cause ordered submitted.

A081109 Justice Corrigan did not participate in the following case.
California Department of Corrections,

v.
Office of Administrative Hearings;
Robert Johnson.

Cause called and argued by Danette E. Valdez, counsel for appellant, and by Steve J. Fama, counsel for respondent. Cause ordered submitted.

A078452 Justice Parrilli left the bench.
The People,

v.
Garry R. Walker.

Cause called and argued by Candace Hale, counsel for appellant, and Linda Murphy, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A081456 Lauren Keegan,
v.
ComputersAmerica, Inc.
Cause called and argued by Michelle R. Worrel, counsel for appellant, and
Anna M. Gannon, counsel for respondent. Cause ordered submitted.

A080259 Ballena Bay Townhouse Association, No. 1, Inc.,
v.
Ian A.P. Roger et al.
Cause called and argued by Ian A. Roger, in pro per, and by Richard Fong,
Jr., counsel for respondent. Cause ordered submitted.

A080978 Homebuilders Association of Northern California et al.,
v.
City of Livermore;
Livermore Valley Joint Unified School District.
Cause called and argued by David P. Lanferman, counsel for appellants;
Andrea J. Saltzman & Robert E. Thurbon, counsel for defendants, and by
Paul B. Campos, counsel for respondent. Cause ordered submitted.

A079550 Independent Stave Company, Inc.
v.
Marcia M. Harvey et al.
Cause called and argued by Thomas R. Healy, counsel for appellant, and by
Gary K. Heppell, counsel for respondents. Cause ordered submitted.

A077708 Thomas Tusher et al.
A081291 v.
Donlon Gabrielson et al.
Cause called and argued by William P. Hoffmann, Jr., counsel for
appellants, and by Arthur M. Brunwasser, counsel for respondents. Cause
ordered submitted.

court adjourned

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Wednesday, November 25, 1998

DIVISION ONE

A073353 -- Deborah Andreacchi v. The Price Company.

The judgment is reversed. Costs to plaintiff. Strankman, P.J. We concur: Stein, J., Swager, J. (Not for Publication.)

DIVISION TWO

A081461 -- Danilo Suva v. Caremark Pharmacy.

The judgment is affirmed. Respondent is awarded its costs on appeal. Ruvolo, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)

A082603 -- In re Vernon B., a Minor.

The dispositional order regarding the maximum period of confinement is reversed and the matter remanded for redetermination of the maximum term of confinement “upon notice with the full opportunity for the minor to be heard.” (*In re Michael B.*, *supra*, 28 Cal.3d at p. 557.) Kline, P.J. We concur: Lambden, J., Ruvolo, J. (Not for Publication.)

A084619 -- Ernest Medeiros v. Arrow International Inc., et al.

The petition for writ of supersedeas/stay is denied and the temporary stay of the proceedings in *Alex Bell v. Arrow International Inc., et al.*, is lifted. Kline, P.J.

Wednesday, November 25, 1998 (continued)

A084878 -- In re Darryl Wright, on Habeas Corpus.

By The Court: The petition for writ of habeas corpus is denied. Kline, P.J.

DIVISION THREE

A076337 -- Ivan Lilley v. Robert E. Hales.

The judgment of the trial court is affirmed. Corrigan, J. We concur: Phelan, P.J., Walker, J. (Not for Publication.)

A078040 -- Herchel Wallace Gordon et al. v. County of Mendocino.

For all the foregoing reasons, the judgment of the trial court is affirmed in its entirety. Costs to respondent. Phelan, P.J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

A078834 -- In re Guy W. et al., Persons Coming Under the Juvenile Court Law.

The appeal is dismissed to the extent it purports to challenge the juvenile court's order of April 23, 1997, regarding Guy. The juvenile court's order of April 23, 1997, regarding Kamaya is affirmed. Phelan, P.J. We concur: Corrigan, J., Parrilli, J. (Not for Publication.)

A079500 -- The People v. Richard Johnson.

The judgment is affirmed. Corrigan, J. We concur: Phelan, P.J., Parrilli, J. (Not for Publication.)

Wednesday, November 25, 1998 (continued)

DIVISION FOUR

A080612 -- Lisa P. et al. v. Pepper Tree Shopping Center et al.

The judgment of dismissal is affirmed. In the interests of justice each party to bear its own costs on appeal. Poché, Acting P.J. We concur: Reardon, J., McGuinness, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Monday, November 30, 1998

DIVISION ONE

A081315 -- In re Devorah P., a Person Coming Under the Juvenile Court Law.

The jurisdictional finding and dispositional order are affirmed. Marchiano, J. We concur: Strankman, P.J., Stein, J. (Not for Publication.)

A081484 -- The People v. Edwin James Maccaskie.

The judgment of conviction is affirmed. Marchiano, J. We concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

A082342 -- The People v. Lloyd Lewis Charles.

The order is affirmed. Stein, J. We concur: Strankman, P.J., Swager, J. (Not for Publication.)

A082659 -- In re the Marriage of Robert and Patricia Lique.

Accordingly, the judgment is affirmed, with costs awarded to respondent. Swager, J. We concur: Strankman, P.J., Marchiano, J. (Not for Publication.)

Monday, November 30, 1998 (continued)

DIVISION THREE

A077708

A081291 -- Thomas Tusher et al. v. Donlon Gabrielsen et al.

The judgment is affirmed. Respondents' motion for sanctions is denied. Respondents to recover their costs on both appeals. Walker, J. We concur: Phelan, P.J., Corrigan, J. (Certified for Publication.)

A078977 -- Marcus & Millichap Real Estate Investment Brokerage Company et al. v. Hock Investment Company et al.

The judgment (Order Denying Petition to Compel Arbitration) is affirmed. Costs to respondents. Parrilli, J. We concur: Corrigan, Actg. P.J., Walker, J. (Certified for Partial Publication.)

A079550 -- Independent Stave Company, Inc. v. Terrance Lee Scott, as Executor, etc.

The court's order denying Independent Stave's motion for trial-setting preference and dismissing its case is affirmed. Harvey's estate is awarded costs and attorney fees on appeal. The matter is remanded to the trial court to determine the amount thereof. Walker, J. We concur: Phelan, P.J., Corrigan, J. (Not for Publication.)

A079920 -- Robert Kreeft et al. v. City of Oakland et al.

The judgment is affirmed. Costs to respondents. Parrilli, J. We concur: Phelan, P.J., Corrigan, J. (Certified for Partial Publication.)

Monday, November 30, 1998 (continued)

A080259 -- Ballena Bay Townhouse Association No. 1, Inc. v. Ian Roger, and Aase Roger.

The judgment of the trial court is affirmed. Costs are awarded to respondent. Corrigan, J. We concur: Phelan, P.J., Walker, J. (Not for Publication.)

A080363 -- Tong Park v. County of San Mateo et al.

The judgment is affirmed. Corrigan, J. We concur: Phelan, P.J., Parrilli, J. (Not for Publication.)

A080650 -- The People v. David Jon Gamali.

The judgment is affirmed. Corrigan, J. We concur: Phelan, P.J., Parrilli, J. (Not for Publication.)

A082886 -- The People v. Larry Dean Faulkner.

The judgment is affirmed. Corrigan, J. We concur: Phelan, P.J., Walker, J. (Not for Publication.)

DIVISION FOUR

A078385 -- The People v. Michael Tony Gallardo.

A083565 -- In re Michael Tony Gallardo on Habeas Corpus.

The judgment is affirmed. The petition for a writ of habeas corpus is denied. Reardon, J. We concur: Hanlon, P.J., McGuinness, J. (Not for Publication.)

Monday, November 30, 1998 (continued)

A080529 -- Constance Burnikel v. Nestlé Brands Foodservice Company.
The judgment is affirmed. Reardon, J. We concur: Hanlon, P.J., Poché, J.
(Not for Publication.)

A081260 -- In re the Matter of Trust of Henry Christian Clausen.
Karen Clausen Freeman v. Catherine Ellis, as Trustee, etc.
The order is affirmed. Freeman is to recover her costs on this appeal.
Hanlon, P.J. We concur: Poché, J., McGuinness, J. (Not for Publication.)

A0816224 -- Diane L. Sangster v. Tyler M. Paetkau et al.
The Court: Good cause appearing, this court's opinion filed on October 30,
1998, is now certified for publication and said opinion shall now be published in
the Official Reports. Hanlon, P.J.

A082375 -- The People v. Anthony Alford.
The judgment is affirmed. McGuinness, J. We concur: Hanlon, P.J.,
Reardon, J. (Not for Publication.)

A082632 -- The People v. Adrian Omeka Adams.
The judgment is affirmed. McGuinness, J. We concur: Poché, Acting P.J.,
Reardon, J. (Not for Publication.)